

pretrial conference, jury selection, and trial. Representation will not extend to any appeal or post-trial motions unless the lawyer specifically agrees to assume those duties. If the Court is unable to locate a PAP lawyer, Plaintiff will be so informed by letter and the matter shall proceed without a PAP lawyer.

In his Motion for Finding of Fact, (Doc. No. 46), Plaintiff argues that a state agency is required to use and keep video footage and that the Defendants state that no camera footage can be found from hand-held or stationary cameras. Therefore, Plaintiff asks the Court to “accept [his] side of things as true.” (Doc. No. 46 at 1).

Defendants have filed a Response, (Doc. No. 47), arguing that Plaintiff does not state the basis or grounds for the Motion and there are no such grounds. Rule 52 of the Federal Rules of Civil Procedure does not apply because Defendants requested a jury trial. To the extent the Court construes the Motion as a Motion for Summary Judgment, it should be denied because it was filed after the dispositive motions deadline and is not supported by an affidavit, any sworn document, or the record. The factual dispute that Plaintiff asks the Court to rule on should be resolved at trial. Moreover, the individual Defendants are not a “state agency” and should not be punished for the lack of video footage. At most, the Motion could be construed as a request for jury instructions, which is premature.


The Motion for Finding of Fact will be denied for the reasons stated in Defendants’ Response.

IT IS THEREFORE ORDERED that:

- (1) Plaintiff’s Motion for Appointment of Counsel, (Doc. No. 45), is **DENIED**.
- (2) Plaintiff’s Motion for Finding of Fact, (Doc. No. 46), is **DENIED**.
- (3) The Clerk of Court is instructed to use reasonable efforts to locate a lawyer from the

Court's PAP volunteer attorney panel to represent Plaintiff at trial.

Signed: May 6, 2019


Frank D. Whitney
Chief United States District Judge

